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*Attorneys for Defendant, U.S. Bank National Association as
Legal Title Trustee for Truman 2016 SC6 Title Trust*

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

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IN RE: (Chapter 11)
Case No.: 1-19-40115-NHL
GREEN GROUP 11 LLC,
Hon. NANCY HERSHEY LORD
Debtor.

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GREEN GROUP 11 LLC,
Plaintiff, A.P. No.: 1-21-01171-NHL
v.

U.S. BANK NATIONAL ASSOCIATION AS
LEGAL TITLE TRUSTEE FOR TRUMAN 2016
SC6 TITLE TRUST,
Defendant.

**DECLARATION IN SUPPORT
OF DEFENDANT’S MOTION
TO DISMISS THE ADVERSARY
COMPLAINT**

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JONATHAN M. ROBBIN, pursuant to 28 U.S.C. 1746, hereby declares under penalty of perjury as follows.

1. I am the Principal of J. Robbin Law PLLC, attorneys for defendant, U.S. Bank National Association as Legal Title Trustee for Truman 2016 SC6 Title Trust (“Defendant” or “U.S. Bank”), and submit this Declaration in support of Defendant’s Motion seeking an Order: (1) pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure (“Rule 12(b)(6)”), dismissing,

with prejudice, Plaintiff, Green Group 11 LLC's ("Plaintiff"), Adversary Complaint; and (2) granting such other and further relief as this Court may deem just and proper.

The Loan

2. On October 17, 2006, non-party borrower, Charles Zizi ("Borrower") obtained title to the property located at 220 Greene Avenue, Brooklyn, New York 11238 ("Property"). To memorialize the purchase of the Property, Borrower executed a deed dated October 17, 2006, and recorded in the City Register of the City of New York ("City Register") on November 3, 2006 in City Register File Number ("CRFN") 2006000616134 ("Borrower Deed"). Annexed hereto as **Exhibit A** is a true and accurate copy of the Borrower Deed.

The Foreclosure Action

3. On July 22, 2008, U.S. Bank's predecessor, Countrywide Home Loans Inc. ("Countrywide"), commenced an action to foreclose in the Supreme Court of the State of New York, County of Kings ("Foreclosure Court") entitled *Countrywide Home Loans Inc. v. Zizi, et al*, at Index Number 21346/2008 ("Foreclosure Action"). Annexed hereto as **Exhibit B** is a true and accurate copy of the Foreclosure Complaint.

4. On January 16, 2014, the Foreclosure Court issued a Conditional Order of Dismissal dismissing the Foreclosure Action pursuant to CPLR 3216. Annexed hereto as **Exhibit C** is a true and accurate copy of the Conditional Order of Dismissal dated January 16, 2014.

5. On December 17, 2018, U.S. Bank moved via order to show case to vacate the Conditional Order of Dismissal ("OSC").

6. Prior to the Foreclosure Court's signing of the OSC, on January 8, 2019 (the "Petition Date"), and in an effort to avoid the OSC, Plaintiff filed a petition ("Bankruptcy Petition") under Chapter 11 of Title 11 of the U.S. Code (the "Bankruptcy Code").

7. The OSC remains pending in the Foreclosure Action, and the Foreclosure Action remains stayed as a result of the filing of the Bankruptcy Petition.

The Transfer of the Property

8. While in default and during the pendency of Foreclosure Action, Borrower deeded the Property to 10821 Holdings LLC pursuant to a Bargain and Sale Deed with Covenant against Grantor's Acts (Individual or Corporation) deed dated November 14, 2013 and recorded in the Office of the City Register on December 9, 2013 at CRFN 2013000505428 ("10821 Holdings Deed"). Annexed hereto as **Exhibit D** is a true and accurate copy of the 10821 Holdings Deed.

9. Thereafter, Borrower timely rescinded the 10821 Holdings Deed pursuant to a Notice of Rescission dated December 4, 2015 and recorded in the Office of the City Register on December 9, 2015 at CRFN 2015000436679 ("Notice of Rescission"). Annexed hereto as **Exhibit E** is a true and accurate copy of the Notice of Rescission.

10. The Notice of Rescission was recorded twice with the Office of the City Register of the City of New York. The second recording was recorded on December 15, 2015 at CRFN 2015000442730. Annexed hereto as **Exhibit F** is a true and accurate copy of the second recording of the Notice of Rescission.

11. Nearly a year after the Notice of Rescission was recorded, a deed dated September 1, 2016 among 10821 Holdings LLC, as grantor, and Plaintiff, as grantee, was recorded in the Office of the City Register on September 26, 2016 at CRFN 2016000334069 ("Plaintiff's Deed"). Annexed hereto as **Exhibit G** is a true and accurate copy of Plaintiff's Deed.

12. Annexed hereto as **Exhibit H** is a true and accurate copy of a Screenshot from the Automated City Register Information System (ACRIS), evidencing the documents recorded and indexed against the Property.

The Bankruptcy Action

13. On January 8, 2019, Plaintiff filed the Bankruptcy Petition in the United States Bankruptcy Court, Eastern District of New York captioned *In re: Green Group II LLC*, at Case Number 19-4-10115-NHL (“Bankruptcy Action”). [Bankruptcy ECF Doc. No. 1]. Annexed hereto as **Exhibit I** is a true and accurate copy of the Bankruptcy Petition.

14. On April 12, 2019, U.S. Bank filed its Proof of Claim and, thereafter, filed a Notice of Assignment of Claim. [Proof of Claim 7-1; Bankruptcy ECF Doc. No. 84]. Annexed hereto as **Exhibit J** is a true and accurate copy of Proof of Claim 7-1 and the Notice of Assignment of Claim.

15. On April 23, 2019, U.S. Bank moved to seek relief from the automatic bankruptcy stay as to the Property. [Bankruptcy ECF Doc. No. 25].

16. On May 23, 2019, creditor, Florida Corporate Funding, Inc. (“FCF”), opposed U.S. Bank’s Motion for relief from the automatic bankruptcy stay as to the Property. [Bankruptcy ECF Doc. No. 37].

17. On May 28, 2019, Plaintiff opposed U.S. Bank’s Motion for relief from the automatic bankruptcy stay as to the Property. [Bankruptcy ECF Doc. No. 38].

18. On May 29, 2019, U.S. Bank filed a reply in further support of U.S. Bank’s Motion for relief from the automatic bankruptcy stay as to the Property. [Bankruptcy ECF Doc. No. 39].

19. On June 14, 2019, FCF filed a Motion to object and expunge U.S. Bank’s Proof of Claim and filed a Disclosure Statement. [Bankruptcy ECF Doc. Nos. 50, 48].

20. On July 11, 2019, U.S. Bank opposed FCF’s Motion to object and expunge U.S. Bank’s Proof of Claim and objected to FCF’s approval of the Disclosure Statement. [Bankruptcy ECF Doc. Nos. 54-55].

21. On July 29, 2019, FCF filed a reply in further support of its Motion to object and expunge U.S. Bank’s Proof of Claim. [Bankruptcy ECF Doc. No. 58].

22. The Motions have been repeatedly adjourned and a decision has not yet been rendered. [Bankruptcy ECF, *generally*].

The Adversary Proceeding

23. On September 8, 2021, Plaintiff filed a complaint (“Adversary Complaint”) captioned *Green Group 11 LLC v. U.S. Bank National Association as Legal Title Trustee for Truman 2016 SC6 Title Trust* at Case Number 1-21-01171-NHL (“Adversary Proceeding”). [Adversary ECF Doc. No. 1]. Annexed hereto as **Exhibit K** is a true and accurate copy of the Adversary Complaint.

24. U.S. Bank now moves to dismiss the Adversary Complaint, with prejudice.

WHEREFORE, U.S. Bank respectfully requests that this Court grant U.S. Bank’s Motion in its entirety and for any such other and further relief as this Court deems just and proper.

Dated: Armonk, New York
November 11, 2021

/s/ Jonathan M. Robbin
Jonathan M. Robbin